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GRANT XXXVIII—REFUNDS OF REVENUE—RESERVED AND TRANSFERRED.

* The Hon. Sir HOPETOUN STOKES :—“ Mr. President, on the recommendation of His Excellency the Governor, I move—

‘ that Government be granted a further sum not exceeding Rs. 1,89,400 under Grant XXXVIII—Refunds of Revenue—Reserved and Transferred.’ ”

The Demand was put and carried, and the grant was made.

V.—AMENDMENT TO STANDING ORDER No. 80.

* The Hon. Sir MAHOMED USMAN :—“ Mr. President, Sir, I beg to present the Report of the Select Committee appointed to consider an amendment to Standing Order No. 80 ^a of the Standing Orders of the Madras Legislative Council and move that the report be taken into consideration.

“ This is a very simple amendment, the object of which is to allow any Member who proposes a change in the Standing Orders to be a Member of the Select Committee which will consider the amendments. In case the Member who proposes the amendment happens to be a non-official Member, it is provided that the Member of Government concerned should also be a Member of the Select Committee. It is a very simple change and I think it is necessary that this should be made.”

Dr. P. SUBBARAYAN :—“ I second it.”

The motion was put and carried.

The Hon. Sir MAHOMED USMAN :—“ I beg to move that the amendment be passed.”

Dr. P. SUBBARAYAN :—“ I second it.”

The motion was put and carried.

VI.—A BILL, TO FACILITATE THE WORKING OF CO-OPERATIVE LAND MORTGAGE BANKS IN THE PRESIDENCY OF MADRAS (BILL No. 5 OF 1933).

* The Hon. Mr. P. T. RAJAN :—“ Sir, I beg to move the following amendments which are merely verbal and formal in character :—

“ In clause 4 (2), in line 2, after the words ‘ issued by the Board,’ insert the words and brackets ‘ (including those issued before the commencement of this Act).’ ”

Mr. T. SUNDARA RAO NAYUDU :—“ I second it.”

The amendment was put and carried.

* The Hon. Mr. P. T. RAJAN :—“ I beg to move—

“ in clause 10, sub-clause (1), in line 2, for the figure ‘ 8,’ substitute the figure ‘ 9.’ ”

Mr. T. SUNDARA RAO NAYUDU :—“ I second it.”

The amendment was put and carried.

^a Vide Appendix IV at page 755 infra.

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* The Hon. Mr. P. T. RAJAN:—" I beg to move the following amendment:—

" In clause 11, sub-clause (1), in line 2, for the figure ' 9 ' substitute the figures ' 10. ' "

This is only a question of renumbering the clauses."

Mr. T. SUNDARA RAO NAYUDU:—" I second it."

The amendment was put and carried.

The Hon. Mr. P. T. RAJAN:—" I beg to move the following amendments:—

" In clause 13 (1)—

in line 3, omit the word ' and ' in the second place where it occurs;

in line 7, for the word, ' body ' substitute the word ' committee ' ; and

in line 8, for the word ' cases ' substitute the word ' case. ' "

Mr. T. SUNDARA RAO NAYUDU:—" I second it."

The amendments were put and carried.

The Hon. Mr. P. T. RAJAN:—" Mr. President, Sir, I beg to move the following amendments:—

" In clause 14, sub-clause (1)—

in line 2, for the figures ' 12 ' substitute the figures ' 13 ' ;

in line 3, for the words ' duly authorized by it ' substitute the words ' duly authorized by such committee ' ;

in line 4, after the word ' Officer ' insert the words and figures ' appointed in that behalf under section 22 ' ;

in line 5, after the word ' notice ' insert the words ' in writing ' ; and

in line 6, for the figures ' 12 ' substitute the figures ' 13. ' "

Mr. C. BASU DEV:—" I second it."

The amendments were put and carried.

12-30 P.M. * The Hon. Mr. P. T. RAJAN:—" Sir, I beg to move the following amendment:—

" Clause 15 (3)—

' In line 4, for the words ' principal Co-operative Officer of the district, ' substitute the words ' principal officer of the Co-operative department in the district. ' "

Mr. C. BASU DEV:—" I second it."

The amendment was put and carried.

* The Hon. Mr. P. T. RAJAN:—" Sir, I move—

" Clause 16 (2)—

In sub-clause (a), in lines 4 and 5, for the words ' to establish the right he claims in the Civil Court, ' substitute the words ' in a court to establish the right he claims. ' "

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In the Explanation, in line 1, for the word 'section,' substitute the words 'sub-section' and in line 2, for the word 'court' substitute the words 'Civil Court'."

Mr. C. BASU DEV:—"I second it."

The amendments were put and carried.

The Hon. Mr. P. T. RAJAN:—"Sir, I beg to move—

"*Clause 18—*

Sub-clause (1)—In line 7, for the figures '16' substitute the figures '17.'

Sub-clause (2)—In line 4, for the figures '16,' substitute the figures '17.'

Sub-clause (3)—For this sub-clause, substitute the following sub-clause, namely:—

"(3) In regard to the cases dealt with in sub-sections (1) and (2), the provisions of rules 97 to 103 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908, shall, mutatis mutandis and so far as may be, apply."

Explanation.—In line 2, for the figures '15' substitute the figures '16.'"

"The first two amendments and the fourth amendment are formal in character. But the third amendment which requires the substitution of a separate clause is based on the following reason. Rules 95 and 96 of Order XXI of the Civil Procedure Code, correspond to clause 18 (1) and clause 18 (2) and there is no necessity to refer to these rules in clause 18 (3). Rule 103 of Order XXI gives a right of suit and cannot be said to form part of the proceeding to be followed by court when dealing with an application under clause 18 (1) or (2). The intention is merely to make the provisions of rules 97 to 103, which relates (a) to resistance or obstruction to the delivery of possession and (b) to the dispossession of persons other than the judgment-debtor (corresponding to the mortgagor in this case) applicable. Hence this draft."

Mr. C. BASU DEV:—"I second it."

The amendments were put and carried.

* The Hon. Mr. P. T. RAJAN:—"I move the following amendment:—

"*Clause 20—Sub-clause (1)—*

In line 3, for the figures '12' substitute the figures '13.'"

Mr. C. BASU DEV:—"I second it."

The amendment was put and carried.

* The Hon. Mr. P. T. RAJAN:—"Sir, I move—

"*Clause 21—*

In line 2, for the figure '12' substitute the figures '13.' . . .

In line 3, for the figures '14' substitute the figures '15.'"

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Mr. C. BASU DEV :—“ I second it.”

The amendments were put and carried.

* The Hon. Mr. P. T. RAJAN :—“ I beg to move—

“ *Clause 24—*

In line 12, for the figures ‘ 8 ’ and ‘ 12,’ substitute the figures ‘ 9 ’ and ‘ 13 ’ respectively.”

Mr. C. BASU DEV :—“ I second it.”

The amendment was put and carried.

* The Hon. Mr. P. T. RAJAN :—“ I move the following amendment :—

“ *Clause 25, sub-clause (1)—*

In line 3, for the figures ‘ 8,’ ‘ 12 ’ and ‘ 22,’ substitute the figures ‘ 9,’ ‘ 13 ’ and ‘ 24 ’ respectively.”

Mr. C. BASU DEV :—“ I second it.”

The amendment was put and carried.

The Hon. Mr. P. T. RAJAN :—“ Sir, I move—

“ *Clause 30 (1)—*

In line 4, for the words ‘ the Mortgage Bank,’ substitute the words ‘ a mortgage bank.’ ”

Mr. C. BASU DEV :—“ I second it.”

The amendment was put and carried.

Rao Bahadur T. A. RAMALINGAM CHETTIYAR :—“ Sir, I beg to move the following amendment :—

“ *In line 2 of clause 33, after the word ‘ apply ’ insert the word ‘ also ’.”*

“ My idea is this: the provision applies to all the loans given out of the money borrowed from the Central Bank. Here this enabling clause says that the same rules will apply also to loans given out of the funds of the Society. That I want to be shown in the clause. I do not want that the effect of the previous chapter should be taken away by any doubt being left in the matter.”

Diwan Bahadur M. RAMACHANDRA RAO :—“ I second it.”

The amendment was put and carried.

* The Hon. Mr. P. T. RAJAN :—“ Sir, I beg to move—

‘ *Re-number clauses 35, 36, 37 and 38 as 37, 38, 36 and 35 respectively.”*

Mr. C. BASU DEV :—“ I second it.”

The amendment was put and carried.

The Hon. Mr. P. T. RAJAN :—“ Sir, I move—

“ *Clause 37 as renumbered by the previous amendment—*

In line 2, for the figures ‘ 12 ’ and ‘ 19 ’ substitute the figures ‘ 13 ’ and ‘ 20 ’ respectively, and omit the figures ‘ 22.’

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In line 3, for the figures and letter '22-A' substitute the figures '25.' "

Mr. C. BASU DEV :—" I second it."

The amendments were put and carried.

* The Hon. Mr. P. T. RAJAN :—" Sir, before I move that the Bill be passed into law, I wish to make a few observations. Hon. Members are aware how, with a view to relieve agricultural indebtedness particularly of the small landholder, land mortgage banks were organized so far back as 1925 and these banks had to find their funds from the share-capital, deposits and debentures, mainly from the last source, viz., the debentures. It was however soon experienced that the debentures of these primary banks were not attractive enough to draw the necessary capital, and it was felt that debentures issued by a larger and central organization would prove more popular and accordingly with the sanction of the Government a Provincial Central Land Mortgage Bank was started in 1929, the shareholders of the same being the primary banks and to a certain extent, private individuals. To ensure public confidence in the debentures of this Bank, the Government guaranteed the interest falling due thereon during the first five years up to an extent of 50 lakhs, while with a view to safeguard its own interests, the Registrar of Co-operative Societies, was to be a trustee of the Bank and also have a seat on the directorate in addition to another nominee of the Government to that directorate. The Bank had so far issued debentures to a value of Rs. 30 lakhs. While the Madras Co-operative Societies Act of 1932, designed to implement the recommendations of the Committee on co-operation, satisfactorily deals with the affair of Co-operative Credit Societies, a supplementary Act dealing specifically with Land Mortgage Banks was found necessary; hence this Bill.

" The main objects of the Bill are two-fold in character, viz., the ¹²⁻⁴⁵ securing of easy credit for land mortgage banks and effective powers for ^{P.M.} the prompt recovery of the loans due to them from their constituents.

" To achieve the former object, the original Bill intended the Government guarantee to apply to the interest payable on debentures, but the Select Committee was of opinion that this Government should stand guarantee for both principal and interest, so that the debentures may be made trustee securities and consequently more easily negotiable, and altered the Bill accordingly. This does still form part of the Bill, but subject to the qualification that the Government could prescribe a maximum limit up to which alone its guarantee would apply, and also that the Government could, at any time after sufficient notice, withdraw its guarantee to any debenture to be issued thereafter. The safety of the Government as regards the guarantees will be in the fact that the trustee, with whose previous sanction alone debentures can be issued,

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is to be the Registrar or a nominee of the Government. This arrangement, it is hoped, while not jeopardizing the interest of the Government in any way, will enable the land mortgage banks to raise the funds necessary for this purpose.

“Now as regards the procedure to be adopted for the prompt recovery of the loans advanced by the banks, it was intended to obviate the need to resort to civil court and therefore according to the original Bill the bank was to be empowered to distrain and bring to sale any movable property of the debtor for the recovery of a mere instalment and to attach and sell the mortgaged property for the recovery of the mortgage amount or any part thereof. The Select Committee however was of opinion that the movable property to be distrained should be only the produce of the mortgaged property and not any other movable property of the defaulter. While this restriction is retained in the Bill, the power of distraint and sale whether of movable or of immovable property was, during the course of the second reading, transferred from the Bank to the Registrar or a person to be appointed by him. This procedure will, on the one hand, have all the advantages of a summary procedure without resort to a civil court and, on the other, avoid the possible dangers which certain hon. Members, not perhaps without justification, apprehended of the misuse of powers on the part of the governing bodies of the primary banks. In effect, the Registrar will constitute an impartial Tribunal duly safeguarding the interests of the bank while, at the same time protecting the debtor against any harassment. Provision is also made for proper notice being given to all interested parties in respect of any proposed action. While all proceedings right up to the confirmation of sale of immovable property will be taken by the Registrar or under his authority, the actual delivery of the land to the purchaser is to be made through the civil court and then the provisions of the Civil Procedure Code, Order XXI, Rules 97—103 are made applicable. This is done to protect the right to possession, if any, of a person who might be a stranger to all preceding transactions.

“The only other provision which needs special mention is that relating to minors and limited owners. The original Bill provided that mortgages executed on behalf of minors or by limited owners shall not be liable to be questioned on the ground that the debt was not binding on the minor or the reversioner. The Select Committee revoked this provision but altered this ordinary law to the extent of placing the onus of proof on the person questioning the binding character of the debt. Even this has now been altered and the ordinary law will hold good except in cases where the mortgage is executed by the managing member of a joint Hindu family.

“It will be seen from the above that the Bill has, at its various stages, undergone material alterations and, as it stands at present, represents the maximum measure of agreement among the various sections of the House. This being a measure conceived not merely in the

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interests of the land mortgage banks, but also to advance the welfare of the poor agriculturists of this Province, I thought it necessary to enlist on its behalf the sympathy and co-operation of every school of thought, and though it has had what might be termed a chequered career, I must confess to a feeling of considerable satisfaction that, thanks to the helpful and constructive criticism and suggestions offered by several hon. Members of the House, whether on the floor of the House or outside, it has been possible for me to ultimately present the Bill in a form which may not be perfect but which, I hope, would be acceptable to every one.

“ Before I conclude my remarks, Sir, I should like to take the opportunity to express my sincere thanks to the Leaders of the various Groups for having agreed to set apart a day for the discussion of this Bill and also to the leading Members of the various Groups who have helped me to arrive at a satisfactory solution of the difficulties pointed out on the floor of the House, by attending the conferences convened by me for this purpose. Though I won't like to make invidious distinctions, I should like to express my thanks to my Friends, Mr. Ramalingam Chettiyar, Mr. Ramunni Menon, Sir A. P. Patro and Mr. Pannirselvam for having constantly met me whenever I wanted them, as the last moment changes required constant consultations and modifications. While thanking the non-official Members, I should also like to thank the Expert Member who has been appointed for this purpose, for the great help he has rendered. I must also thank Mr. Hood, the present Finance Secretary, who was good enough to place at my disposal all his experience. He was Registrar of Co-operative Societies and it was during his period of office that the Central Land Mortgage Bank was organized. I also take this opportunity, Sir, to thank my Registrar for his help; and to express my sincere thanks to Diwan Bahadur R. V. Krishna Ayyar for the great help he has rendered in drafting the various amendments which have been necessitated as a result of the discussions. I should not forget to thank the Development Secretary and the staff of the department, which deals with this matter, for the readiness with which they coped with the work, seeing that this is the Budget season. Before I close, Sir, I should also like to publicly acknowledge the keen interest exhibited by the representatives of the Madras Presidency in the Assembly in connexion with making the debentures of the Central Land Mortgage Bank trustee securities.

“ With these words, Sir, I have great pleasure in moving—

‘ that the Bill, as amended, be passed into law’. ”

Mr. T. SUNDARA RAO NAYUDU:—“ I second it.”

* The Hon. the PRESIDENT:—“ The motion is that the Bill, as amended, be passed into law.”

The motion will have to be put to vote at one o'clock. *

Diwan Bahadur B. MUNISWAMI NAYUDU:—“ Sir, I think this Bill is welcome in one or two respects. Firstly, it will make it possible for

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the Government to guarantee the investment of private capitalists in land mortgage banks, not merely the interest but also the principal; and to that extent, making it possible for private capital to flow into this bank. Secondly, in its object, it will be helping the agriculturists in obtaining loans for long terms, although unfortunately such facilities have not so far been provided for them. At the same time, Sir, I think that the mentality underlying this Bill, so far as the construction of its clauses is concerned, is more the securing of the position of a favoured creditor to the land mortgage bank and to arm it with powers which no other private creditor can hope to get. I do not grudge the arming of these banks with such powers and privileges, but at the same time, I think that those who are responsible for having this Bill ushered in, i.e., the authorities of the land mortgage bank, have been more anxious to secure for themselves greater powers of recovering loans than really to see that easy credit was given to the agriculturist, while his other sources of borrowing money or getting capital were not prejudicially affected. Sir, the provision providing for the lands being sold without the interference of the court is one which is fraught with very serious dangers, even so far as the agriculturists are concerned. It is no doubt true that the agriculturists will be helped with long-term loans being granted to them; and one would naturally expect that the agriculturists would be enabled to return the loans from time to time according as the times and the nature of the other demands on their credit necessitated. We cannot shut our eyes to the fact that having regard to the low prices prevailing and the uncertainties of the seasons and to various other circumstances that attend upon cultivation, it is not always possible for the agriculturist, from merely out of his own produce, to repay the instalments at the proper times in the shape of money. The agriculturist therefore will very often have to go to other sources, temporarily if necessary, to borrow, in order to repay these instalments. Nextly, the agriculturist, after taking these loans and undertaking to repay them on a long-term basis, has got other loans to borrow to meet other expenditure. For that as well he must look to other sources for taking loans. Lastly, even under the provisions of the Co-operative Societies Act, there are only certain kinds of loans that will be given to the agriculturist—what we may call productive loans, or loans given for productive purposes, in the sense that they will prove profitable in the long run—and he will not be given any loans for any other purposes. So that, we find that at every stage the agriculturist, even after taking loans from the mortgage banks, will have to take loans, sometimes for good purposes and at other times for other purposes, from other sources. Under the general law, any one can give further loans to the agriculturist on the security of his lands, thinking that after paying the agriculturist loans, there will still be some margin left to him and that he will be protected under the general law when the bank wants to enforce payment by sale of property or by regular proceeding being launched, in which he himself will be brought in as a defendant, when he can have a chance to take such objections as he wants to. But by the introduction

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of the summary power of sale, large power is vested in the mortgage banks to bring the properties to sale and one of the sections specifically provides that when a sale is held and confirmed, it will not be liable to be impeached upon some of these grounds, not even on the ground that no notice was given. We have provided also in other sections that, if this power of sale is exercised, notice should be given before the application for sale is made, and notice should be given during the sale by the officer conducting the sale. Having provided that statutorily, we will be making the whole thing nugatory by saying that if there is a violation of this safeguard, that violation shall not affect the sale or the title of the purchaser of the property, but shall only drive these people to sue for compensation against the bank. That is a large order, and that will seriously affect persons who may have to advance loans on the strength of the property of the agriculturist. Therefore, the result from the point of view of the tenants and those who own lands will be that once they get into—I would not say the clutches—the ambit of these mortgage banks, they will be practically deprived of any other man giving them loans at reasonably low rates, because they run the heavy risk of their properties being sold, and they won't even be given notice, in order to safeguard themselves.

“ Again, Sir, there is a provision authorizing the bank to distrain the property or the produce of the land for the purpose of these loans. Of course I find this power is to be exercised with the sanction of the Deputy Registrar, as the Bill has now been amended. But what do we find? It does not matter whether it is made at the instance of the Deputy Registrar or not. I think the Expert Member was saying that, with the guarantee given by the Government, much private capital would flow into the bank and that the bank will be able to extend its operations to a very large extent. If that is to be so, we shall not be having borrowers by hundreds but by thousands. It is really impossible to take comfort in the fact that this provision requiring the sanction of the Assistant or Deputy Registrar would be a sufficient safeguard against the possible misuse of powers by the banks in bringing properties to sale.”

* The Hon. the PRESIDENT:—“ May I suggest that the hon. Member may continue his speech after the House reassembles? ”

The House rose for lunch.

After Lunch (3 p.m.)

Diwan Bahadur B. MUNISWAMI NAYUDU:—“ I was referring to the possible effect of the provisions of the Bill with regard to the chances of the ryots' position being seriously affected in borrowing for other than productive purposes from co-operative banks.

“ Then, Sir, there is a provision that the produce could also be distrained and sold. It is a provision which is rather important and

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which is capable of misuse and abuse. Apart from that, the powers vested in the bank in the matter of sale cannot be more tersely and more forcibly put than what my hon. Friend did as a Member of the Select Committee. He has shown how at a time when the ryot would be expecting to repay the loans taken by him for seeds and other purposes with the sale proceeds of the produce, his produce may be attached and he may not be able to pay those from whom he borrowed for seeds and other things. The Government ought to take into consideration these circumstances in working out the provisions of the Bill and see that they are not abused. No doubt in the Bill as it emerged from the Select Committee the power is given in each case to the Deputy Registrar, on application made to authorize the distraint; but it is really impossible for the Deputy Registrar to deal with a thousand and one cases that would arise and after all you cannot but act on the report of the bank authorities who would say that, unless that power is given to them, it would be impossible for the bank to recover their monies. More often than not it would be granted as a matter of course when the banks ask for it.

“ With regard to the sale of lands, the Bill provides for the appointment of an official as the sale officer under section 22 of the Act to bring the properties to sale. As I have already said, the sale completed by the issue of a certificate cannot be impeached so far as purchase is concerned. But so far as the bank is concerned, the liability for any irregularity of omission or for want of proper caution on the part of the sale officer or for other reasons, i.e., if the property is sold for a very low price and thereby the owner of the property suffers loss, rests on the bank and the owner of the property may sue the bank for compensation. The claim for compensation is not against the sale officer who conducted the sale but the bank. The result, therefore, will be that the bank will have to pay for compensation for acts done, not by its own officers, not for acts done by an officer appointed by the bank, but by the Government. The result will be that you are throwing upon the banks the liability for compensation for acts done by the sale officers who are not the agents of the banks but are empowered by the Government in this behalf. My hon. Friend, Mr. Ramachandra Rao, shakes his head evidently taking it as a good point that a public official is entrusted with the sale. But, Sir, the mere fact that the sale officer is appointed by the Government is no guarantee that the sale is conducted properly. If that is so, this very provision for compensation is ununderstandable. If everything will go all right with a sale officer appointed by the Government, I fail to understand the need for a provision regarding compensation. We do not find any provision for compensations in respect of sales conducted by courts. The only remedy is to apply for setting aside the sale on grounds of irregularity or fall in prices. Beyond that, there is no other remedy. Supposing in the case of a sale conducted by the sale officer, for some reason or other—through oversight or irregularity—the sale price has been very low, there is no provision in this Bill for anybody to intervene and set

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aside the sale. The only provision to be found is that once the sale is held, within 30 days thereafter, the person affected might deposit the amount due and put in an application for cancellation of the sale. If the deposit is not furnished, or the application is not made, or if the application is made and dismissed, the sale is to be confirmed. It will be noticed that on the application to set aside the sale, the payment of the deposit amount is the only relevant point to be considered and not whether the property has been sold for its proper value or not. The result will be that while we have authorized the sale of property by a sale officer, there is no provision in the Bill for setting aside the sale of the property in case it is not sold for its proper value; and above all this we have got the provision in the Bill to mulct the bank to pay damages to persons who may be affected. This is a curious liability on the bank for acts done by another official, however much we may welcome the idea of having an officer appointed by the Government as the sale officer.

"It is therefore clear that from the point of view of the ryot, the provision with regard to the distraint and sale of produce is likely to affect very prejudicially his capacity to repay loans borrowed by him for other purposes for which no other co-operative banks will finance him. It may also act prejudicially against persons who may have given the ryot loans for other purposes because there is the possibility of the lands being sold away at the instance of the bank under circumstances in which they will have no safeguard for them. It may be, there may be some claim for him against any surplus amounts. Even in court sales, it does happen at times that, with all the publicity and proclamation the properties are sold for a price very much less than its actual worth. As such, in the case of a sale conducted by the sale officer, there is the possibility that the surplus amount left would be nothing or very little indeed. In the result, the subsequent mortgagee will have to sue the ryot in a court of law for the recovery of his amounts. If it is on any other security, it is well and good. But all the same the ryot will surely be put to a great loss, both in respect of the sale transaction conducted by the sale officer as well as in regard to payments in respect of the second transaction. I must say, Sir, that in working out the provisions, due regard should be taken of all these things and if they are worked hastily, they are sure to affect very seriously the future borrowing from the bank. Once a debtor to the bank always a debtor to the bank is the position to which the ryots will be reduced.

"There is one other provision which has been introduced in the Bill and that is that after the sale is made and the certificate issued, the purchaser will be entitled on application to court to take possession of the land, not merely against mortgagor or other persons acting on his behalf, but also against everybody who might have a title to that property either by way of mortgage or by way of sale subsequent to the mortgage to the bank. A notice is sought to be given to the parties affected by the sale; but the absence of any such notice does not matter so far as the sale is concerned. Not satisfied with all this, the Hon. the

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Minister wants to give further powers to the bank in the matter of bringing the property to sale without the intervention of the court. This provision, I am sure, the Expert Member will justify on the ground that is nothing new. When it is open to the mortgage in the City of Madras or in any of the Presidency towns to take that power by expressed stipulation in the mortgage deed, there is no reason why a similar power should not be taken by the bank in regard to the properties situated in the mufassal. May I ask the hon. Member whether he can point out any single provision in the Act which goes to the extent of saying that the purchaser shall come into possession of the property merely on an application being made to court? There is no such provision at all. The purchaser cannot be deemed to be a purchaser until the prescribed time has elapsed and all objections have been considered and decided. And even then, Sir, the persons affected have the right of appeal. But this is all in respect of cases where private people are concerned. I think, Sir, that the anxiety of a money-lender in the garb of a bank is evident from such enormous powers that have been taken in respect of possession of property after sale by the sale officer.

"It may be said that I am making a carping criticism on the Bill; but my view is only to impress upon the Government that every possible step must be taken to see that the powers which are given by this Bill are not allowed to be misused and that in exercising these powers they are to be very careful to see that the person to whom the power of sale is entrusted, i.e., the sale officer, is one of sufficiently high rank in office so that there can be a guarantee and there may be a certain amount of confidence in the minds of the people affected that what is done by him will be done correctly. As for the qualifications of the sale officer, I shall be glad if the Government prescribe some rules laying down the qualifications for such officers. A person of the Deputy Tahsildar's rank or of the Deputy Registrar's rank may be empowered in this behalf; but with the growing number of sale applications, these qualifications should not be relaxed. It would be a dangerous precedent to appoint anybody of a lower rank because any irregularity committed by the officer may result in damages to the bank or the owner of the property.

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"I think, Sir, there is still another provision in the Bill which also shows the mentality of the framers of the Bill, that it is intended more to protect the bank rather than protect the ryots. Sir, I refer to section 29 which gives a certain amount of immunity to the bank and its officers in lending money. Any ordinary money-lender would take reasonable care and precaution that in lending money he acts honestly. It is a safeguard and a protection of the interests of the other members of the borrower's family. If, on the other hand, the money-lender does not take proper precautions and the mortgagor for the time being mortgages his properties, it is open to the other members of the family who are affected, to contest the debt on the ground that it is not taken

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for reasonable purposes or for family purposes. In such a case the money-lender will have to prove to the satisfaction of the court that he has taken all reasonable precautions, that he has enquired into the necessity for the debt and that he was satisfied with it. Even if it goes to a court, if the money-lender proves to the satisfaction of the court that he acted *bona fide* that he took all reasonable precautions and after proper enquiries he was satisfied with the reasonableness of the debts, the courts generally agree with the money-lender that the money had been utilized for the purpose for which it was taken. In order therefore that the creditor should be protected, he should make proper enquiries before he is satisfied with the purpose of the loan. Now, when such is the case with private money-lenders, I do not see any reason why this bank should be put on a better position. After all, if the bank conducts its operations with regard to the sanctioning of loans in a manner that is above board, if the directors of the bank do their work satisfactorily, and make enquiries on application being made for a loan, that they have grounds for believing that the debt is necessary—these are all matters of record—and if these things are satisfactory, the court would naturally be inclined to accept their case as one of prudent transaction. But, what we do find in section 29 is a sort of immunity given to the bank. I think these officers and the way in which loans are granted by them by saying, once a loan is granted by the bank, it shall be the presumption that the officers have done everything rightly and it shall be open to the other party to prove that there is no necessity for the loan; that means, the proof of the negative is what the other people are asked to prove. Sir, those who are accustomed to procedure in courts and its implication will only know how difficult it is to prove a negative of this sort. The only things that have to be proved by the bank are only, the circumstances under which the loan was given, the enquiries made and the criticisms, if any, in regard to the sanction of the loan; but the absence of it is asked to be proved by the persons who have no knowledge whatever. If there is a case in which no such presumption ought to be allowed to be drawn, it is a case in which the bank is concerned.

(At this stage, Mr. K. R. Venkatarama Ayyar occupied the Chair.)

“ I am only sorry that the Government have readily agreed to this kind of immunity, because in a matter where circumspection and care are required of public officials, the official concerned is given a sort of immunity by which he is likely to feel, ‘ it does not matter what kind of enquiry I am making, the law is there to protect me and who is going to ask me and so let me sanction the loan.’ Any ordinary money-lender or even any bank would be careful before sanctioning a loan. What I want to say is this provision will lead to several difficulties. For instance, the officers or even for that matter, the managing committee of a mortgage bank consisting of local people who may be swayed away by so many considerations, are given immunity under the Act, but the onus of proof is only on the other side.

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"I therefore think that, while we are anxious that every facility should be given to protect the bank, this kind of trying to put a premium on inefficiency or upon the carelessness of the bank ought not to be allowed to stand and this is also a thing which may seriously affect where two parties to a transaction are concerned. Sir, this will go to show how, so far as this Bill is concerned, though as the Hon. the Minister has stated that it is conceived with the best of wishes and possibly goes to a large extent to fulfil that object, yet it is conceived also in the spirit of trying to help the bank itself and to put it in a better position than ordinary money-lenders; and I am sorry to say that the same interest has not been shown towards the ryot to whom these facilities ought to be given and whose interests ought to be protected much more zealously by the Government than merely of the bank. Somehow or other, throughout this Bill, the feeling seems to have been that, because Government have to guarantee interest and principal on account of the issue of debentures and have given money to the bank, they seem to think that, if the bank is not able to pay them, the Government will suffer and so it seems they are giving the bank all possible considerations, not considering who is to pay and how. You do not look at it from the point of view of the ryot, because you think that the bank has an important position in the body finance, and therefore you can conveniently ignore the interests of the ryot and other persons. I therefore think that considering it from this point of view, the same interest has not been shown towards protecting the ryots. While you are allowing them to take loans, it should be your duty to see that their properties are not sold and also the rights of other people who will be affected by the transaction are properly protected. I therefore hold that, while this Act is worked, Government should take care to see that some kind of procedure is adopted by way of administration report or otherwise as to how this Act reacts upon the interests of the ryots themselves and upon other people who are interested in those properties and if at any time they consider that it is abused the Government should step in and see that matters are set right.

"After having said that, if myself and my party agree to this Bill being passed, it is because, as I said, we believed that the Bill was conceived in the spirit of helping the ryots. By this Bill it is possible to treat debentures as negotiable securities and thereby much money will flow into the mortgage banks. Therefore, as it is, conceived in that spirit and also as the Bill is intended to help the realization of that spirit to a large extent, I support the Bill.

"I must also thank the Hon. the Minister for his appreciation of the co-operation which all parties have given and I on my part tender my thanks for the solicitude he has always shown to find out from other people who may not see eye to eye with him to what extent they could have agreed to the Bill. All the same I think the Bill will be able to achieve the purposes for which it is intended and that is to bring relief by way of long-term loans, so that the heavy indebtedness of the whole Province will be relieved."

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* Diwan Bahadur M. RAMACHANDRA RAO:—" Mr. Chairman, I thought I might intervene in the debate for a few minutes at a later stage of the proceedings in order to make a few remarks with reference to some of the points raised by my hon. Friend, Mr. Muniswami Nayudu. I must say at the outset that, after having heard all his criticisms, it was somewhat comforting to hear the concluding part of his speech in which he gave his support to the Bill. I may assure him, as one who has something to do with the working of the bank, that all his suggestions will be borne in mind in actual working. There are, however, some matters which might have been cleared up if they had been subjected to criticism at the second reading stage, and many of the misconceptions about the objects of the Bill that are in the minds of some hon. Members might have been cleared. The result is that the fundamental principles are again under examination when the Bill is about to be passed into law. Therefore, I have to refer to a few of the remarks of hon. Members, and deal with what I think to be the fundamental objects of the Bill.

" Sir, my Friend said that no proper consideration has been shown to the interests of the borrower. You cannot have a land mortgage bank without certain essential conditions and one of them is that the bank which is going to lend large sums of money to borrowers for 20, 25 or even for longer periods, must be effectively armed, in case of default, to recover its dues. The reason is this. The main method of financing this Bank is by the issue of debentures and the debenture holders are entitled to interest regularly at the end of every six months. We have now issued debentures to the extent of 30 lakhs, we have to pay the debenture holders interest at 5, 5½ and 6 per cent regularly at the end of every six months. Now, the conditions under which these debentures are issued are that, if the debenture interest is not paid within a period of three months after it falls due, the debenture holders have the right to demand payment of the sum for which the debenture is issued and therefore it is of the utmost importance that the Bank should be placed in a position to meet its obligations to the persons from whom the debenture capital has been raised. Therefore this is a very fundamental problem and this fact should be remembered, namely, that the Bank is financed by the issue of debentures which involves on the part of the Bank payment of interest every six months and which can only be done if persons to whom this money is lent are regular. Further, our transactions are carried on through the primary banks, that is, what we borrow by way of debenture money, is lent to primary banks and the primary banks in their turn lend the funds to a number of borrowers on mortgages. Therefore, unless the borrowers pay their interest regularly to the primary banks and the primary banks regularly pay that interest to the Central Bank, we shall not be in a position to meet the debenture interest regularly. The consequences of our not being in a position to pay this interest to debenture holders are most serious, and we will be making for the Central Bank, which

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is the central financing agency, a great deal of trouble. If interest is not paid, the trustee of the debenture holders has a right to step in and do what he likes to satisfy the claims of debenture holders, both with regard to the payment of interest and of principal. This is of course the first time we are now attempting to float debentures through a central agency on the collective security of the properties of borrowers. Therefore, the provisions in the Bill for distraint, sale or administration of the properties, are for the purpose of enforcing the obligations of these borrowers regularly with a view to see that the debenture interest is paid regularly, so that the central financing agency may not be put to trouble. Sir, the remarks made by my hon. Friend seemed to suggest that these are extraordinary powers. I contend that it is not so. Wherever land mortgage banks have existed and have been working successfully, as in Germany and France, they have been given exactly the same powers of distraint of movable property, powers of administration and sequestration and so on and unless such powers are given it is impossible for the banks to function successfully. I do not think I need trouble the House by citations from books on the subject of the state of things in Germany, France and other countries where land mortgage banks have been working successfully, but I shall content myself with saying that identically the same powers have been given to such banks in those countries.

3-30
p.m.

"There is one other point that I should like to mention in this connexion. The question of constituting or establishing land mortgage banks in this country has been under consideration for several years. The question was considered in 1926, then in 1928 and the whole question was considered by the Townsend Committee. The question was also considered by the Royal Commission on Agriculture. The question of financing the agriculturists with long term loans was again considered by the highest authority, namely, the Central Banking Enquiry Committee which was advised by experts from Germany and England. All those who have examined these questions have recommended these identical powers in view of the experience gained in other countries by the mortgage banks. I will read one paragraph from the Townsend Committee report:

'We are of opinion, however, that the power of sale is necessary, if debentures are to be popular and marketable. Land mortgage banks are being started to rescue the ryot from the money-lender; this object will be frustrated if banks are handicapped in their operations by delay and difficulty in suits and executive proceedings to recover mortgage debts. Rules should however be made for the issue of due notice of the intention to exercise the power of sale, for due publicity of all proceedings connected with the proclamation and conduct of the sale, and for the postponement of the sale when the highest bid for the property is not adequate. We further recommend that the sale should be conducted through the agency of the Registrar, or an officer authorized by him, or such other officer as the Government may prescribe.'

"Now, Sir, these recommendations about the power of sale to be given to mortgage banks have been endorsed by the Royal Commission on Agriculture. They have been endorsed by the Central Banking

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Enquiry Committee. Therefore, when my friend says that this is an extraordinary power, I can only say that these powers are there in western countries wherever the land mortgage banks have succeeded and that these powers have been recommended by three very responsible committees in this country. I do not think, Sir, I need weary hon. Members by going into the details of the criticism of my hon. Friend, Mr. Muniswami Nayudu. He said a good deal about the powers of distraint being abused by the banks, the powers of sale also being abused. But what is the power which he proposes to confer on mortgage banks? Does he advocate lending money to everybody without any summary power of recovery. Then, what would be the position of these banks? I am not able to see what is the exact position of my hon. Friend? Does he want to confer any powers at all on the banks? Apparently he wants us to go to court (Sir Patro: It is not his intention.) My friend, Sir Patro, seems to be a commentator of my friend's speech. So far as I have been able to listen to him, I have not been able to see any suggestion as to what power he proposes to confer on the primary bank or the central bank. He criticized the power of sale. He also did not want the power of distraint in the Bill. The appointment of receivers is also an extraordinary step. What then would be the position of the banks which lend money for 20 or 35 years? If money is lent to persons for 20 years and if the banks have no power to collect the money when it falls due, what then will be the position of the debenture-holders? I should have been very glad if my hon. Friend had suggested some other way of meeting the situation than a resort to ordinary civil courts. Would he like to have these defaulting members subjected to the process of land revenue administration? Would he like to have these funds collected in the same way as land revenue collections? (Mr. Sami Venkatachalam Chetti: Appoint receivers.) One of the writers in a recent book on the subject condemns the appointment of receivers in strong terms. The appointment involves dispossession, change of management, expenses of management, indefinite postponement of the placing of the man again in possession. A receiver won't have the personal interest of the owner in his own property. There is another suggestion to sell away the property. I may tell him at once that it is not the object of the bank to sell up the defaulter.

“As far as possible we do not want to sell anybody's property and when we resort to sale we do not want to become landholders. There is a distinct provision in the Bill that the properties purchased should be resold within a period fixed by the Registrar and that is intended to prevent the accumulation of landed properties in the hands of the Central Land Mortgage Bank. May I assure hon. Members that our main object is to collect instalments regularly? We do not want to bring the properties to sale. We do not want to subject them to distraint unnecessarily. The appointment of a receiver is a more drastic proceeding. Further I submit that the powers given are all reserve powers and I believe these powers may be conferred on the committees of the primary banks which consist of representatives of the borrowers without any

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danger. My own feeling is that these powers will not be exercised even in cases where they ought to be exercised. Therefore, I do not think my hon. Friend is right when he made all these criticisms about abuse of the power.

“ There is only one other criticism I wish to make in regard to these matters. There are in the co-operative field two sets of opinions. One is that the co-operative movement should be freed from official control. The other is that official control should be maintained. I do not know to which school my hon. Friend, Mr. Muniswami Nayudu, belongs. (Diwan Bahadur B. Muniswami Nayudu: May I know to which my friend belongs? One question is not answered by asking another. If my friend wants really to tell me where he is, I am perfectly willing to answer his question. The hon. Member in charge of the Bill naturally framed this Bill by giving these powers to the committees of the primary banks. When the Bill comes up for consideration, you say, ‘ You have given too much power to the banks. We shall give the power to the Registrar.’ I should certainly be satisfied with the exercise of these powers by the committees of these primary banks. After all they are representatives of the borrowers and so far as I see these members know, if they exercise the powers wrongly, they will be criticized by the members of the banks in the villages. But we have now interposed the Registrar and I do not regret it. I am equally willing to try that method. Only it may involve delay. My hon. Friend says, ‘ Will it be possible for the banks to secure the services of the Deputy Registrar?’ The Registrar has been given these powers at the suggestion of my hon. Friend. (Diwan Bahadur B. Muniswami Nayudu: May I say that nobody said that. On the other hand we opposed the provision.) If my hon. Friend had allowed this provision to be put in, he is a consenting party to it. I do not want to pursue this controversy. I am prepared to give a trial to the provisions as embodied in the Bill. I certainly would not have thought it a very dangerous thing, if these powers were entrusted to the primary banks. If, after gaining experience of the working of the banks, any further provisions are necessary and if any flaws are discovered, I am certain that the matter will be brought up again before this Council.

“ There is one other provision to which I want to make reference. That is clause 29. In our short experience of three and a half years we have found various difficulties in lending money to members of a Hindu family. There is always a minor and we do not want to be put in a difficult position on account of minors if these transactions are questioned on the minor attaining majority. Our loan applications pass through the committee of the primary bank, they are examined and reported upon by two directors and then they go to the committee and after that is done the necessity of the loan is investigated, by the Sub-Deputy Registrar, then the applications go to an officer called the Deputy Registrar who investigates the loan applications. After all these steps are taken the applications come to the board of the Central Bank—when

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they are again examined critically. If any inference can be drawn it is that these applications are fairly bona fide transactions. We do not want to give room to dishonest minors to come up afterwards and challenge these transactions at the end of 15 or 20 years.

“That is all. The banks are semi-public institutions managed on a ³⁻⁴⁵ co-operative basis and formed for the purpose of financing the ryots and ^{p.m.} guaranteed by the Government. They have a certain amount of stability and special protection is given to these in every country.”

Diwan Bahadur B. MUNISWAMI NAYUDU:—“Are there any joint families in any of those countries, Sir?”

* Diwan Bahadur M. RAMACHANDRA RAO:—“Well, I admit that joint families are institutions peculiar to our land, but land mortgage banks are not peculiar to our country. The question of surrounding the mortgage banks with a certain number of special provisions was considered by the Baroda Land Mortgage Banks Committee which recommended exactly the same provisions which have been discussed and referred to in the Bill. Therefore I do not see why these banks should not be surrounded by certain special privileges for the purpose of stabilizing their work and placing them on a sound footing.

“I do not wish to weary hon. Members with any more reference to these topics. There is however one matter which I should mention. We are deeply grateful to the Madras Government and to the Hon. Mr. P. T. Rajan for standing by this bank, during all these two and a half years. We had a very acrimonious controversy with the Government of India in regard to the debentures issued by the bank as being declared trust securities. During the whole period the Hon. Minister and the Members of the Madras Government have stood by this bank and they have now induced the Government of India to accept these debentures as trust securities. It is very essential that this should be done for the reason that, unless they are so recognized, they would not be easily negotiable. I therefore take this opportunity of thanking my hon. Friend for the strenuous fight that he put up in this matter and for the wise decision in bringing forward this Bill.”

Rao Bahadur Sir A. P. PATRO:—“Mr. Chairman, Sir, I am one of those who attended the Conference called by the Hon. Minister for giving shape to this Bill for giving benefit to the people. The object is a laudable one and we are grateful that the Bill has been passed. I rise now to make a few observations in reply to what the experienced liberal politician has stated to-day. I only wish that he had no connexion with the Central Bank. If he had no connexion with it, he would have taken exactly the same position taken by my hon. Friend, Mr. Muniswami Nayudu, and all the criticisms made by Mr. Muniswami Nayudu would have been valiantly supported by the hon. the Expert Member. But, fortunately or unfortunately, he happens to be so much absorbed with the work of the Central Land Mortgage Bank that, human nature being what it is, he forgets himself and pleads

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and advocates the cause which he has undertaken for the benefit of the people. He has impressed us with the desirability of running the Land Mortgage Bank on the debenture system. I am sure hon. Members of this House are no wiser now than when they first started with this Bill. We started with saying that there should be these debentures. Further repetition of it does not improve matters. The hon. the Expert Member has referred us to the position of land mortgage banks in Germany and France. I am glad to see that he did not read extracts from the reports of their working. I am glad that the land mortgage banks are working satisfactorily. We expected it. But we have in our Province the Hindu Law and usage, our co-parcenary system and our joint family system and we have also got the widow's estate and the Muhammadan Law. What about their bearing on the working of the banks?

(At this stage the Hon. the President occupied the Chair.)

"Then, Sir, the hon. the Expert Member said that when we are trying to work for the benefit of the people, how are we going to pay the debentures unless every month the primary societies pay us regularly and unless there was power given to recover from them? This difficulty is common to all forms of banking. There is nothing strange in that. If you have got a federation of central banks and other banks working, unless the primary banks also work in unison, it will be impossible to meet the demand. There is nothing extraordinary in that to justify the demand for summary powers of the kind provided in this Bill.

"Then, Sir, the question was repeatedly asked of Mr. Muniswami Nayudu as to what alternative he had to suggest. He was asked what suggestions he had for recovering the loans advanced. The answer is quite simple. In putting this question to Mr. Muniswami Nayudu, the questioner probably forgot the existence of the Agriculturists Loans Act, the Land Improvements Act and so on. Under these Acts loans are granted to agriculturists. And how is the money recovered? Have we in those cases contemplated overriding the provisions of the Transfer of Property Act? No. Why should we do so in this case? How does the Imperial Bank recover its debts? Here you have, according to the Expert Member the Government guarantee for the principal and interest not only for the past transactions but for the future transactions as well. With the people's money, the Government has been very generous. If the bank fails the tax-payers must foot the Bill. Now it remains to be seen how far the transactions of this bank are going to be beneficial to the agriculturists. A distinction must be drawn between the real agriculturists and those who have invested their moneys on land. The investors are really capitalists. Is it for their sake, for the sake of the capitalists who buy debentures, that you are going to have this drastic power? Or, are you taking this power for the benefit of the poorer classes, the agriculturists? This is the acid test of this Act. It is not a question of how you recover. I am willing to give you all

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the power you want for recovery of your moneys, but on one condition and that condition is that you should really help the agricultural and the ryot population. I am not interested in the capitalists and how you repay your debentures issued to them. That is your anxiety. But I may tell you that these investors are no better than those who have invested in other concerns. Unless and until we are satisfied by means of the working of this Bank that it is for the benefit of the real agricultural population, we will not be willing to give such drastic powers. We have now given you these powers because the Hon. Minister is anxious that some such Bill as this must be placed on the Statute Book and a start made. As we go on working this and gain experience, we will modify it whenever necessary. But I may repeat that the acid test of this measure is the extent to which it benefits the agricultural population.

"Then, the hon. the Expert Member asked Mr. Muniswami Nayudu, of the two schools in the co-operative movement, to which school he belonged? I would not be so sporting as to put to the Expert Member by way of a reply to which school the Expert Member himself belonged. He is a politician of great experience with a good deal of knowledge of men and things. I have great respect for him. He is a thoroughly liberal politician. But in the matter of this Bill, he has become so thoroughly bureaucratic that he is supporting the cause of the capitalists.

"It is a great change that has come upon Diwan Bahadur M. Ramachandra Rao, whom we know to be a nationalist. (Laughter.) But could you not save us from those summary powers vested in the Central Banks, which will work surely to the detriment of the agricultural classes? What do the summary powers propose to do? Under these powers you are going to attach the crops of the agriculturist, you are going to appoint a receiver for his lands, you are going to bring his land to sale and you are going to dispense with the claims of owners. And these powers, Sir, the hon. Expert Member claims to be necessary in whose interest? Not in the interest of the agriculturist, not in the interest of the poor persons who mortgage their lands, but in the interests of the capitalists who advance money to the Central Banks. So, I am sure the hon. Expert Member will think over it and revise the whole position at the end of the year. After all, if you want to safeguard the money of the banks, there are several other provisions by which the money of the banks could be realized. You do not require such drastic provisions as you have made in the present Bill. My friend, Mr. Muniswami Nayudu, has ably dealt with the details of the Bill and he has rightly sounded a note of warning, which must be borne in mind by all directors. It remains to be seen how the directors of the Central Bank assisted by their trustee or the Registrar, whoever he may be, are going to work this Bill, and if we are to have the same experience as we have had in the Co-operative Credit Society, then it will be a great disaster to this Province. But if, on the other hand, the directors are persons of great integrity of character, patriotism

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and love for the country, we can expect much good for the agriculturist, and it would be a blessing both for them and the country. If, on the other hand, the personnel of the directorate is such that they pay no interest to things economic and social and allow the interests of the agriculturist to go by default, then I feel sure this Bill will be a curse to the ryots. All the same, the Bill, as it is framed at present has been accepted by this Council, and I wish it every success."

* Mr. C. BASU DEV:—"Sir, I rise to associate myself with the observations of my esteemed and hon. Friends, Diwan Bahadur B. Muniswami Nayudu Garu and Sir A. P. Patro. They have practically exhausted all their remarks on the legal aspects of the Bill, and I do not wish to detain the House by either repeating or adding to those observations. I would like to say that the hon. the Expert Member has rightly laid stress on the importance of the primary banks, and I strongly endorse his opinion about their great contribution to the success of the Mortgage Bank. I have some knowledge of the history and working of these primary banks. I know, Mr. Krishnayya Choudari will bear me out when I say that these primary banks were ushered into existence over-night and their directorate packed with a particular section of the Telugu Brahman community. Sir, if this is the way in which these primary banks are to be started, and the co-operative movement is to function, I have absolutely no hope that they will fulfil even in part the high expectations which we entertain about the movement.

"Another point to which I wish to advert is the nature of the loans granted by these banks. You know, Sir, that I had been asking for a copy of the administration report of the Central Land Mortgage Bank, and to-day the hon. the Expert Member was kind enough to place a copy in my hands. I immediately turned to the chapter on loans, as I was anxious to see what are the purposes for which loans were borrowed from this bank and how far the noble objects with which the bank was started have been carried out. For the information of the House I shall read from the Preamble of the Bill the objects of the Central Land Mortgage Bank:

'In order to provide for the grant of long-term loans to owners of land with a view to enable them to discharge their debts, to carry out agricultural improvements, to acquire land for the formation of economic holdings and other like purposes and thereby to promote thrift and self-help among them.'

"If this administration report had anything in it to tell us that at least a hundredth part of these objects has been fulfilled, I will be the first person to wholeheartedly support the provisions of this Bill but as it is I will have to give my hesitating vote. The provisions are certainly extraordinary; and when my friend, Mr. Muniswami Nayudu, referred to them as extraordinary, he meant that they are out of the ordinary in comparison with the provisions of the common law of the land. Mr. Ramachandra Rao said that such privileges were granted to such banks in foreign countries. But that does not take away the extraordinary nature of these provisions. There is a great deal of difference

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between banking in foreign countries and banking in this country. In foreign countries they have developed, at least that is our information, a strong public opinion and their standards of commercial morality are high. In this Presidency the absence of public opinion and the low standards of commercial morality and the way in which co-operative societies were started and worked give us little hope of any good results. Sir, the rate of interest is high. I would strongly urge considerable reduction of the rate of interest of the debentures. I will join my hon. Friend, Mr. Muniswami Nayudu, in his solemn warning to the hon. Expert Member that the directorate should use all possible care and keep an incessant watch over the way in which these loan applications are entertained and sanctioned and should endeavour its best to translate the noble objects of the Bill into action.

“ Sir, I shall not detain the House any longer. Finally I should like to take this opportunity to express my admiration of the Hon. the Second Minister for the way in which he has piloted this Bill through the Council. I hope he too will ever be watchful, and keep a vigilant eye on the working of this Act and of this Bank and see that it is worked satisfactorily so as to fulfil the expectations of the people.”

MR. SAMI VENKATACHALAM CHETTI:—“ On a point of order, Sir, may I know whether there is any possibility of the Estates Land Act (Amending) Bill being taken up in the course of this evening? ”

* The Hon. the PRESIDENT:—“ That is not a point of order. (Laughter.) The hon. Member could have put it on a point of information. All the same, so far as I know, it is not likely to come up to-day. It may be postponed to to-morrow. The Hon. the Leader of the House will presently make an announcement after this subject is finished.”

* Rao Bahadur T. A. RAMALINGAM CHETTIYAR:—“ Mr. President, Sir, I am glad that all those who have now spoken on this Bill have said that in its working caution is necessary and that provisions ought to be made to see that there is no abuse of powers. I may repeat once again here that the powers that are given are of an unusual character, and so I am glad that a timely warning has been given in this House that, in the use of these powers, great care ought to be taken. I am sure that the banks will take steps to introduce as many safeguards as possible against any abuse of powers, with which they have been entrusted by this House. I am glad, Sir, that, judging from the speeches in this House with regard to this Bill, the Members of this House are taking some interest in the movement that is going on. One of the main objections which I took in my dissenting minute against the Bill as it emerged out of the Select Committee, was that the Bank should not be allowed unlimited powers of floating debentures without coming to this House now and then. The justification for such a view is found in the discussions that have taken place here to-day. I want that, whenever this Council vests any body with powers that body should come before this House now and then, so that the administration of those powers, vested in those bodies, could be reviewed

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by this House from time to time. I am glad that in the Bill as now framed and which is now about to be passed into law, there is provision for bringing the working of these institutions before this Council whenever an additional series of debentures is going to be issued. That is a great point which, I think, has been gained after the Bill left the Select Committee. There is also another provision against which I took objection, namely, the question of the power of distraint given to the Land Mortgage Bank. I do think that this power of distraint is likely to harm the interests and position of the mortgagor, as it is likely to bring down his power of raising money elsewhere. But all the same, the reason why I am able to give my unqualified support to this Bill at present is this: in the provisions of the law, as it at present stands, if a default has been made, a suit can be filed before the Registrar, or rather an application can be filed before him; and when such an application is put in, the party has got the right of securing an order for attachment of property before judgment. Such being the case, the procedure that is going to be followed is practically the same as in the ordinary cases of default. But there is this difference between the two. In case a suit has to be filed in the ordinary way, the suit will have to be filed for the whole amount; and that, needless to say, will be a bad thing for the mortgagor. So the present provision has got all the safeguards for the bank, inasmuch as it provides for the attachment of property before judgment, and at the same time it helps the defaulter in his not being asked to pay the whole amount and thus it saves the property from being brought to sale. But for the introduction of this provision, I would be of the same opinion as regards this Bill as I was when it was first introduced. Of course I do not see eye to eye in this matter with the hon. Expert Member, even though he is the President and I am the Vice-President of the Madras Central Land Mortgage Bank. I do not think this power of distraint is at all necessary. I think without that power we can go on, as we have been doing all along. He seems to be of opinion, that but for this power we would have to default in our payment of debenture interest. I do not think that would be necessary. What we want is that we should have some surplus fund, or some reserve fluid resource, so that in case there has been a default we can fall back upon that fund. I think it is possible. So I do not think that the danger which he mentioned in this House

4-15 a few minutes back is a real danger. Probably according to the view
p.m. which he takes, nobody will take debentures, because in several cases there will be default on account of failure of crops or loss owing to cyclone or other causes like that. I do not think the position of the central bank is so very bad that the moment there are some defaulters, the central bank will fail. I think the bank will have enough funds to meet such contingencies. In cases where defaults are made by primary banks, I think we have enough provision for the payment of our dues. If there is no provision, it is high time that we made such a provision. I am not supporting the Bill on the grounds mentioned by the Expert Member but I am supporting it on other grounds. The provision with

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regard to filing of application in case of default and asking for attachment before judgment has been modified. The amended provision is better than what it was before. I may also state that the Townsend Committee also did not recommend that power of distraint should be given to land mortgage banks but they recommended only that certain other facilities should be given. But the power of distraint is given to banks of a similar nature in some other countries but not in all. In any case I may say that the practice is not uniform throughout. Taking the Bill as it stands, there is not going to be any danger as my hon. Friend, Mr. Muniswami Nayudu, felt. The power of filing a suit for arrears and attaching one's property is found even in the case of Co-operative Societies Act.

"Then, Sir, with reference to the power of sale that has been given, that is the feature with all the banks and that has been recommended by all the committees. I do not think, especially when we have the intercession of a Government officer, there is going to be any trouble.

"My hon. Friend, Mr. Ramachandra Rao, said that we have to choose between giving power to the non-officials who are managing these institutions and the Government. I have been saying always that this is a matter in which we will have to work together. I do not think we can be talking of people being on one side and the Government on the other. It is not a matter in which the interests of the department and those of the members of the bank are different or conflicting. It is a matter in which there ought to be absolute co-operation. The department is intended for the proper working and management of the society. I do not think I can contemplate anything like a conflict between the interests of the department and those of the societies. There have been various matters in which there has been difference of opinion in this Province and I have always stated that our attitude should not be one of encouraging antagonism between the department and the non-officials. This attitude, I am glad to note, has been accepted by most of the Members of this House.

"Then, Sir, with reference to other facilities that have been given to the banks, viz., the right of sale, etc., references were made, by my hon. Friend, Mr. Muniswami Nayudu, to some provisions and he said that there would be some trouble. I do admit there will be some trouble, but I do not know how we can get over such trouble. For instance in confirming the sale, my hon. Friend, Mr. Muniswami Nayudu asked 'Supposing there is an irregularity, what are we going to do?' Of course in such cases, it is the mortgage banks that will suffer, because there is the right of suit for the party who has suffered for damages against the bank. So if anybody is to complain against such a provision it is the bank. Unless there is some speedy sale there is no possibility of realizing money promptly. If we allow the property to be sold in auction, and allow the man to go and fight in court,

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I think it will be very difficult to realize the money. The difficulty has to be solved in some manner or other. As my hon. Friend Mr. Muniswami Nayudu, said rules will have to be framed for the successful working of the Act. Any rules will be difficult to work if we take extreme cases. It is from the way in which we work the Act and the spirit in which we work it, that we can surmount these difficulties. That is the only thing I can say about this provision. If we take extreme cases there will always be difficulty, and such cases do not occur. At this stage I appeal to the Government to realize their responsibility in this matter. They have armed the bank with very large powers which my hon. Friend, Mr. Muniswami Nayudu, has remarked, are likely to be abused. So it is the duty of the Government to see that such abuse does not occur. The whole working of the Act depends upon two things, viz., (1) proper scrutiny of title and (2) proper valuation of properties. If the preliminary valuation is made by the society there is the final valuation which is made by an officer of the Government. Unless there is a person to check this valuation who is independent of the society and who can be relied upon, the whole thing may collapse. Secondly much depends upon the title. People lend money only when the title is absolutely proved. For scrutiny of title also distinct provision will have to be made. I now appeal to the Government, having passed the Bill into law, that they must now provide for an agency for this purpose. Already the number of banks is increasing. Unless the Government appoint a proper agency for valuing the properties, it will become very difficult for those banks to work.

“Then, Sir, with regard to going into titles, the present system is not satisfactory. Each society has its own vakil. It can nominate whomsoever it likes. I would insist upon the Government or the central bank to appoint a proper person to go into the titles. I would also ask the Government to see that some persons are trained in the way of scrutinizing the titles, and also in checking the documents.

“I have only to congratulate the Hon. the Minister for the tenacious way in which he has carried forward this Bill through its various stages. When the Bill came out first, there were provisions of a doubtful character. He has, Sir, managed to avoid all the difficulties. Those that still remain are those that cannot be helped. So, I congratulate him on the way in which he has carried forward this Bill and on the way in which he has shaped it in the Select Committee, although originally it was thought that it was not properly framed.”

* The Hon. Mr. P. T. RAJAN :—“Sir, whatever may be the opinions on some sections of this Bill, there is this fact which I have noted: the House has accepted that there is a necessity for a Bill of this type and that it is in the interests of the agriculturists. I listened with great attention to the speech of my hon. Friend, Mr. Muniswami Nayudu, and, as far as I could gather, all his objections centred round

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the clauses which deal with distraint and sale of properties. Of course as a lawyer—there are a number of leading lawyers in this House—he wants to safeguard personal and property rights, and where these rights are involved, he wants to stand as a zealous guardian of individual liberty. If it is purely an academic question, I would certainly agree with my hon. Friend, Mr. Muniswami Nayudu, and those of his way of thinking. But one has to take into consideration that the land mortgage bank is going to be a semi public institution and it is going to be worked without any profit and in the interests of the agriculturists. Secondly Government guarantee not only the interest but also the principal. As suggested already, you will have to give some sort of power to the bank to realize their money which has been lent to people. If it is agreed that some summary powers should be given to the bank, all that one can see is whether necessary safeguards can be introduced so that these powers are not abused.

“As I pointed out this morning, the Bill, as it emerged from the Select Committee, has undergone a great deal of change, so far as distraint of movable and sale of immovable property is concerned. I may say that the power of distraint will not be unnecessarily exercised. I hope the bank will manage their affairs in such a way that there may not be any necessity to resort to power of distraint or sale. Mr. Muniswami Nayudu wanted to see that the officers who are going to distrain property or conduct the sale of immovable property are men of certain status, so that they may not commit mistakes or misuse the powers. I can assure my hon. Friend that officers of the status of Sub-Deputy Registrars and above will be deputed to conduct the sale, etc., and that the Registrar will keep a strict watch over these men. 4-30 p.m.

“Some of the points raised by hon. Members have already been answered by my hon. Friends, Mr. Ramalingam Chettiyar and Mr. Ramachandra Rao, and I do not think I need detain the House in making any further remarks. I may say, Sir, that this central bank is the first of its kind in India and I believe other provinces are looking forward to this Province to copy our system. I am quite sure that the directors and those who have anything to do with the bank will conduct the affairs of the bank in such a way that they will justify the existence of the bank and make it a very useful institution to the people. I am indeed thankful to my hon. Friend, Diwan Bahadur Muniswami Nayudu, for his good wishes, and I am only sorry that on account of his ill-health he was not able to give that amount of help which he is certainly in a position to give as he is connected fairly intimately with the co-operative movement. I will once more assure my hon. Friends that so far as the Government are concerned, they will see that the summary powers given to the bank are used not merely in the interests of the bank but more in the interests of the agriculturists. I do hope that hon. Members here and the people outside will take a greater interest in the working of this

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bank and make the bank a greater success and make it more useful to the agriculturists. I am sure that when this Bill is passed into law, it will to a great extent serve the interests of the public. I may also add that, if in course of time, as a result of our experience it is found that the Act requires any change, I am quite sure that either myself or those who follow me will introduce the necessary amendments.

“ I once more thank the House for their readiness and willingness to spare time for considering this Bill and for all the help they gave to facilitate the passage of the Bill.”

The question that the Bill be passed into law was put and carried.

III.—A BILL FURTHER TO AMEND THE ESTATES LAND ACT, 1908
(BILL NO. 12 OF 1931).

* The Hon. Sir MAHOMED USMAN:—“ Mr. President, Sir, the reconsideration of the Bill further to amend the Estates Land Act has been put on the agenda for to-morrow in accordance with the desire of the Leaders of various Groups, and His Excellency has agreed to allow the Council to consider the subject to-morrow. After this subject is considered, the rest of the time will be taken up for Budget discussion, which will come to a close to-morrow evening.”

Mr. SAMI VENKATACHALAM CHETTI:—“ May I ask if it is to suit the convenience of the Leaders of groups that the reconsideration of the subject has been postponed to to-morrow? ”

* The Hon. Sir MAHOMED USMAN:—“ I discussed this matter with the Leaders of groups both day-before yesterday and to-day and it was agreed that this Bill might be taken up to-morrow.”

Mr. SAMI VENKATACHALAM CHETTI:—“ I submit, the House is entitled to know why the Bill has not been taken up to-day.”

* The Hon. Sir MAHOMED USMAN:—“ We have very little time left to-day to consider it.”

Mr. SAMI VENKATACHALAM CHETTI:—“ What I ask is whether this subject is postponed to to-morrow in order to suit the convenience of the Members of the House.”

* The Hon. Sir MAHOMED USMAN:—“ Perhaps to suit the convenience of Government.”

Mr. SAMI VENKATACHALAM CHETTI:—“ Is it only perhaps or definite? ”

* The Hon. Sir MAHOMED USMAN:—“ I am unable to say anything further.”

Mr. SAMI VENKATACHALAM CHETTI:—“ May I know if His Excellency the Viceroy's sanction has been given to the changes proposed in the Bill? ”

* The Hon. Sir MAHOMED USMAN:—“ The Hon. the Revenue Member will throw light on the subject to-morrow.”